

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MICHAEL J. MACDORMOTT,

Plaintiff,

v.

Case Number 09-10104

Honorable David M. Lawson

Magistrate Judge Michael Hluchaniuk

MECOMINGS FINANCIAL,

Defendant.

**ORDER WITHDRAWING ORDER OF REFERENCE TO MAGISTRATE JUDGE
MICHAEL HLUCHANIUK, DISMISSING THE DEFENDANT'S MOTION TO
DISMISS, AND DISMISSING THE CASE WITHOUT PREJUDICE**

On January 15, 2009, the Court referred this case to Magistrate Judge Michael Hluchaniuk for general case management pursuant to 28 U.S.C. § 636(b). On October 27, 2009, the defendant filed a motion to dismiss. Then, on November 24, 2009, the plaintiff filed a notice of voluntary dismissal pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure [dkt. # 18]. Because the plaintiff's filed its notice of dismissal before the defendant answered to the plaintiff's complaint or filed a motion for summary judgment, the Court will withdraw the order of case reference to Magistrate Judge Hluchaniuk, dismiss the defendant's motion to dismiss as moot, and dismiss the plaintiff's case without prejudice. *See* Fed. R. Civ. P. 41(a)(1); *see also Aamot v. Kassel*, 1 F.3d 441, 444-45 (6th Cir. 1993) (permitting Rule 41(a)(1) voluntary dismissal even where the defendant files a motion to dismiss for failure to state a claim and supports that motion with the matters outside the pleadings).

Accordingly, it is **ORDERED** that the Order of Reference [dkt. # 31] to Magistrate Judge Michael Hluchaniuk is **WITHDRAWN**.

It is further **ORDERED** that the defendant's motion to dismiss [dkt. # 15] is **DISMISSED** as moot.

It is further **ORDERED** that the plaintiff's case against the defendant is **DISMISSED** without prejudice.

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Dated: November 25, 2009

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on November 25, 2009.

s/Teresa Scott-Feijoo
TERESA SCOTT-FEIJOO